

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
No. 5:22-cv-491-BO-RN

CRISTOBAL LOPEZ LOPEZ and)
GILBERTO FLORES LOZANO, on behalf)
of themselves and all similarly situated)
persons,)

Plaintiffs,)

v.)

BOYKIN FARMS, INC., RHODES)
FARMING, LLC, WILLIE C. BOYKIN, III,)
MATTHEW Z. RHODES, TONY D. LEE,)
d/b/a LEE AND SONS FARMS, TONY)
CAMERON LEE, d/b/a LEE AND SONS)
FARMS, and CLINT LEE, d/b/a LEE AND)
SONS FARMS,)

Defendants.)

**LEE DEFENDANTS' MOTION
FOR PARTIAL SUMMARY
JUDGMENT**

Defendants Tony D. Lee, Tony Cameron Lee, and Clint Lee (all also “d/b/a Lee and Sons Farms” and collectively the “Lee Defendants”), by and through the undersigned counsel and pursuant to Rule 56 of the Federal Rules of Civil Procedure, submit this motion for partial summary judgment, and move this Court for an Order entering partial summary judgment in their favor for the following reasons:

(1) Because Plaintiffs Cristobel Lopez Lopez and Gilberto Flores Lozano (collectively “Plaintiffs”) and the Opt-in Plaintiffs Orlando Eliseo Rebolloza Gutierrez and Juan Antonio Torres Rebolloza did not work for any Defendant in 2022, any claim by them, or on behalf of the putative class, for issues allegedly occurring in 2022 must fail for lack of standing.

(2) Because Plaintiffs did not file their Complaint until December 2, 2022, based on the date of Plaintiffs' first week of employment at Lee & Sons Farms, Plaintiffs' Fair Labor Standards Act ("FLSA") claims that they were not reimbursed in 2019 or 2020 for all their H-2A related inbound travel and visa expenses during their first workweek, resulting in average hourly pay below the statutory minimum wage are barred by the two-year statute of limitations.

(3) Based on the dates they filed their opt-in notices for the collective FLSA action, the FLSA claims by Opt-in Plaintiffs Orlando Eliseo Rebolloza Gutierrez and Juan Antonio Torres Rebolloza's are barred in their entirety by the two-year statute of limitations.

(4) Based on the date he filed his opt-in notice for the collective FLSA action, Opt-in Plaintiff Jorge Alberto Rebolloza Garcia's FLSA claims for 2021 are barred by the two-year statute of limitations.

(5) Because Plaintiffs did not file their Complaint until December 2, 2022, any claim by Plaintiffs for violation of the FLSA for failure to compensate them in 2019 or 2020 at the minimum wage rate is barred by the two-year statute of limitations.

(6) Because Plaintiffs did not file their Complaint until December 2, 2022, any cause of action under the NCWHA by Plaintiffs accruing prior to December 2, 2020 is barred by the applicable two-year statute of limitations.

(7) Because Plaintiffs did not file their Complaint until December 2, 2022, any cause of action under the NCWHA by any putative class member accruing prior to December 2, 2020 is barred by the applicable two-year statute of limitations.

(8) The Lee Defendants never sold or charged Plaintiffs or any other H-2A worker for meals, meal plans, food, or drinks. Therefore, any claim arising from allegations that the Lee Defendants charged Plaintiffs or the putative class for meals, meal plans, or food fails as a matter of law.

(9) The Plaintiffs' individual FLSA claims for compensation for time spent driving to and from the fields or other work locations at the start or end of the day fail because that time is not compensable under the FLSA.

(10) Clint Lee is not an employer of either Plaintiff or the Opt-In Plaintiffs within the meaning of the FLSA and NCWhA so all claims against him must fail.

In addition, the Lee Defendants rely on the concurrently filed Memorandum of Law in Support of the Lee Defendants' Motion for Partial Summary Judgment, the Lee Defendants' Statement of Material Facts in support of Summary Judgment, as well as the Appendix to the Statement of Material Facts with deposition excerpts, declarations and exhibits attached.

WHEREFORE, Defendants Tony D. Lee d/b/a Lee and Sons Farms, Tony Cameron Lee d/b/a Lee and Sons Farms, and Clint Lee d/b/a Lee and Sons Farms pray that partial summary judgment be granted in their favor pursuant to Federal Rule of Civil Procedure 56.

Respectfully submitted, this the 13th day of February, 2025.

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on February 13, 2025, the foregoing *Lee Defendants' Motion for Partial Summary Judgment* was electronically filed with the Clerk of the United States District Court for the Eastern District of North Carolina using the CM/ECF system which will send notification of this filing and an electronic copy of same to all counsel of record as follows:

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